

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:10-CR-00074-F-1

UNITED STATES OF AMERICA,)	
)	
v.)	<u>ORDER</u>
)	
DOMINIQUE ALEXANDER JONES,)	
Defendant.)	

This matter is before the court on Dominique Alexander Jones' Motion to Set Aside Void Judgment [DE-91]. In his motion, Jones argues that the judgment entered in this case is void because this court lacked subject matter jurisdiction.

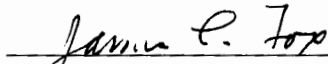
The relief Jones is seeking is identical to the relief he could obtain through a successful section 2255, and for this reason, the court will treat Jones' Motion to Set Aside Void Judgment as a motion brought pursuant to 28 U.S.C. § 2255. *See United States v. Winestock*, 340 F.3d 200, 207 (4th Cir. 2003) (holding that "a motion directly attacking the prisoner's conviction or sentence will usually amount to a successive application.") Jones previously filed a section 2255 motion that was addressed on the merits. Pursuant to 28 U.S.C. § 2244(b)(3)(A), "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." Jones has not provided any evidence that he has secured authorization from the Fourth Circuit Court of Appeals to file a successive section 2255; thus, this court is without jurisdiction to consider the merits of the present successive section 2255 motion.

In light of the foregoing, Jones' Motion to Set Aside Void Judgment [DE-91] is

DISMISSED. The court finds that Jones has not made the requisite showing to support a certificate of appealability. Therefore, a certificate of appealability is DENIED.

SO ORDERED.

This, the 3rd day of March, 2015.



JAMES C. FOX
Senior United States District Judge